

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JERRY WAYNE SCOFIELD,

Plaintiff,

V.

REOSHA BUTLER, *et al.*,

Defendants.

CASE NO. 2:20-CV-652-WKW
[WO]

ORDER

Before the court is the Recommendation of the Magistrate Judge (Doc. # 82) to which Plaintiff has filed objections, (Doc. # 83). Based upon a *de novo* review of those portions of the Recommendation to which objection is made, 28 U.S.C. § 636, the court finds that the objections lack merit for either the reasons given in the Recommendation or because the objections, for the second time in this litigation, are based on new factual allegations not included in the operative complaint. *See Williams v. McNeil*, 557 F.3d 1287, 1292 (11th Cir. 2009) (“[A] district court has discretion to decline to consider a party’s argument when that argument was not first presented to the magistrate judge.”); *see also, e.g., Malcolm v. Kijakazi*, 564 F. Supp. 3d 1253, 1261 (S.D. Fla. 2021) (citing *Powell v. Burger Docs Atlanta, Inc.*, No. 1:19-CV-3808, 2021 WL 4192864, at *6 (N.D. Ga. Sept. 14, 2021)) (“[A]n objection to a report and recommendation is not the place to assert new factual allegations.”).

While recognizing that Plaintiff is moving in a *pro se* capacity, the court finds that any further amended complaints in this longstanding, multi-amended case would be futile. *See Hall v. United Ins. Co. of Am.*, 367 F.3d 1255, 1262–63 (11th Cir. 2004) (“[A] district court may properly deny leave to amend the complaint . . . when such amendment would be futile.”).

Accordingly, it is ORDERED as follows:

- (1) The Recommendation (Doc. # 82) is ADOPTED; and
- (2) Plaintiff Jerry Scofield’s Second Amended Complaint (Doc. # 80) is dismissed with prejudice under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim.

A separate and final judgment will follow.

DONE this 27th day of June, 2024.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE